

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

LOCAL UNION NO. 95, INTERNATIONAL)	
BROTHERHOOD OF ELECTRICAL WORKERS)	
)	
vs.)	Public Case No. 106
)	
CITY OF MONETT, MISSOURI)	

SERVICE AND HOSPITAL EMPLOYEES)	
UNION, LOCAL NO. 50)	
)	
vs.)	Public Case No. 107
)	
CITY OF MONETT, MISSOURI)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

FINDINGS OF FACT

This matter presently appears before the State Board of Mediation upon the Judgment and Decree of the Circuit Court of Barry County, Missouri, which remanded the case to the State Board of Mediation for the purpose of making adequate and proper findings of fact and conclusions of law in compliance with Section 536.090 RSMo. 1969.

The following opinion is based upon testimony and evidence which was received by the State Board of Mediation, herein referred to as the Board, at a hearing conducted on May 15, 1975, in Raytown, Missouri.

On March 31, 1975, a petition was filed by the International Brotherhood of Electrical Workers, Local Union No. 95 (Public Case No. 106) by which they seek to represent a bargaining unit in the City of Monett, Missouri which is composed of the following: All employees in the Electrical Department, City of Monett, Missouri, including

head linemen, linemen, meter reader and groundsmen, excluding all managerial, administrative, clerical and supervisory employees.

On March 30, 1975, a second union, the Service and Hospital Employees Union, Local No. 50, filed a petition with this Board of (Public Case No. 107) by which they seek to represent a bargaining unit in the City of Monett, Missouri, which is composed of the following: All non-supervisory labor and trade employees in the following departments; street, park, sanitary, waste, sanitation and waste treatment plants, excluding supervisory and clerical, fire, police and electrical departments.

The City of Monett's (herein referred to as the City) position is that the aforementioned units are inappropriate for the purposes of collective bargaining and that the unit should consist of the following: all salaried and regular full time and part time hourly paid employees in the following classifications in each named department in the City of Monett, Missouri: (1) the Administrative Department, which includes the bill machine operator, clerk typist and maintenance man. (2) Utility Department, which includes the secretary, head linemen, linemen no. 1, meter reader, working foremen, equipment operator, laborer, pump operator, waste treatment plant operator and assistant plant operator. (3) Park Department, which includes the cemetery caretaker, equipment operator, casino custodian, laborer, and cemetery laborer. (4) Street Department, which includes truck driver and the equipment operator. (5) Fire Department, which includes the assistant fire chief, captain, lieutenant and volunteer firemen. (6) The Sanitation Department, which includes the garbage collector, truck driver and laborer. (7) Telephone service operators or dispatchers which number approximately four. The exclusions would be all managerial, supervisory and professional employees, including the golf pro. City Clerk, City Collector and all seasonal, temporary or casual employees and all policemen.

I.

The evidence states that the City of Monett has a utility department which is broken down into three separate sections, the electrical, waste, and wastewater treatment section. The members of the electrical section within that department report to work in a separate building which adjoins that of the water department. Traditionally, a practice of the City in reference to the treatment of employees in making wage increases was to make a flat increase across the board for all employees, however, an exception was made during the last increase, whereby the electrical linemen received approximately a 15% increase in salary in comparison to the other City employees who received an 8% increase. The evidence has further shown that in this day to day operation of the City the electrical department has an interrelationship with the other departments whereby they assist one another in the work which must be accomplished. A specific example which was brought out in the testimony stated that if there was a tree to be removed by the street department for the reason that it might be endangering an electrical line or a nearby building that members of the electrical department will assist in the removal of this tree and during such assistance would be under the supervision of the superintendent of the street department. There is further evidence to show that members of the electrical section have assisted the street department in drilling holes for guard rails and traffic signals.

The meter reader, who is employed within the electrical section of the utility department, has on occasion repaired the drinking fountains in the city park and has also assisted in painting park benches and buildings upon completion of his duties in reading the electrical meters within the City.

No record is kept of this interchange of services and no billing takes place between the departments for these services.

The interrelationship of activities also occurs between other departments and sections. The street department removes trees and debris for the park department and they also assist in the hauling of fill dirt for the sewer treatment plant.

There is ample evidence to show that the equipment of one department as well as the men of one department would be used in another department to carry out that department's function. This type of activity is not performed on an infrequent basis, it occurs on a day to day basis.

II.

In reference to the administrative department employees, the evidence which appears in the record is very limited and states that the administrative employees work inside, mainly in the city hall, and secondly, it does not appear that there is an interchange of activity with other city employees.

III.

The group of employees designated as telephone dispatchers work on an evening shift and operate out of a separate office located in city hall. The dispatchers handle all incoming calls which range from those of peace disturbances to fire calls.

IV.

The record reflects that the City of Monett employs approximately fourteen firemen of whom ten are volunteer and four are regular firemen. The volunteers hold permanent jobs with various other organizations within the city on a full time basis. The full time employees of the fire department work on a schedule of forty-eight (48) hours on and seventy-two (72) hours off, in contrast to the other city employees who work from nine o'clock in the morning until five o'clock in the evening. The full time men in the fire department consist of the fire chief, the assistant fire chief, the lieutenant, and the captain. The fire fighters are the only employees in the city who are actually trained in fighting fires. There is not an interrelationship between the fire department and other

departments and the use of the non-fire department personnel in fighting fires is extremely rare.

V.

It should be noted that there is one other position on which the Board received evidence during its May 15th hearing. This particular individual is the secretary of the utility department. This individual keeps records of personnel for the electrical, water, and waste treatment sections. It is this individual's duty to update the maps as to new installations of any kind and to indicate any changes in the water flow or in the electrical distribution system. The employee's duties further include the general filing, writing up of easement requests, preparation of statistical matter and the filling out of a monthly report in reference to the electrical section and the water section. She also is required to keep records of personnel for these departments and takes applications for employment and maintains files on said applications and has access to information pertaining to the wage recommendation increase by the superintendent.

VI.

It has been stipulated to by the parties that the seasonal employees who are not regular full or part time employees are not to be included in an appropriate unit.

CONCLUSIONS OF LAW

The Board in this case must make a determination as to whether there should be a unit of electrical employees being represented by the International Brotherhood of Electrical Workers and a second unit of employees being represented by the service and hospital union, or whether there should be one unit with all appropriate workers included within that particular unit. The Board in this case must also make a determination as to whether the electrical workers, the administrative department employees, the telephone dispatchers, and the members of the fire department possess an identifiable community of interest.

In making a decision regarding an appropriate unit the applicable statute is Section 105.500 (1) RSMo. 1969 which states:

"Appropriate unit" means a unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned.

In the matter before us, IBEW, Local 95 has alleged that there should be separate representation for the members of the electrical department because of the electrician's specific craft, and furthermore, that this particular union which seeks to represent the electrical workers has a long experience in representing electricians.

It is the belief of the city, however, that it is not in the public interest for the employees of the city to be fragmented into multiple bargaining units.

The electricians may constitute an identifiable group of craftsmen. However, the evidence clearly shows that the separate community of interest enjoyed by these electricians has been submerged in the broader community of interest they share with other employees by reason of the day to day necessity of the interrelationship of equipment and men within the city.

It is the belief of this Board that the severance of a craft unit will be considered for all cases on the basis of all factors relevant to each individual case and that there can be no binding and rigid rule in making this determination.

It is impossible to make a fair and equitable decision in regard to the office clerical employees and the telephone dispatchers based on the evidence within the transcript of the hearing conducted on May 15, 1975. It is the opinion of this Board, therefore, that the office clerical and telephone dispatchers be excluded from the unit inasmuch as there is not an identifiable community of interest with the other city employees.

There is substantial evidence to show that the fire fighters do not share the identifiable community of interest with the other city employees inasmuch as there is no interplay or interrelationship between the fire fighters and the employees of the other departments. Therefore, it is the opinion of this Board that the fire fighters should be excluded from any defined appropriate unit at this time.

The secretary of the utility department has access to personnel files and acts as secretary to the superintendent who makes recommendations regarding personnel policy. This particular individual is a confidential employee. "Confidential" employees have been defined as those employees who assist and act in confidential capacity to persons who exercise managerial functions in the field of labor relations. B. F. Goodrich Company, (1956) 115 NLRB 722. It is the decision of this Board, therefore, that the secretary of the electrical department within the utilities section be excluded from the unit.

DECISION

It is the decision of this Board that an appropriate bargaining unit in the city of Monett, Missouri, be defined as follows:

All non-supervisory labor and trade employees in street, park, cemetery, water, sanitation, waste treatment, and electrical departments; excluding supervisory and clerical employees, dispatchers fire and police.

Entered this 16th day of April, 1976

(SEAL)

MISSOURI STATE BOARD OF MEDIATION

/s/ Michael Horn
Michael Horn, Chairman

/s/ Harry R. Scott
Harry R. Scott, Employer Member

/s/ Richard Mantia
Richard Mantia, Employee Member